



United States Department of the Interior

BUREAU OF RECLAMATION
Mid-Pacific Region
Bay-Delta Office
801 I Street, Suite 140
Sacramento, CA 95814-2536

IN REPLY REFER TO:

BDO-100
ADM-1.00

JAN 14 2013

Ms. Cindy Messer
Delta Plan Program Manager
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814

Dear Ms. Messer:

The Bureau of Reclamation's Bay-Delta Office has been following and commenting on the work of the Delta Stewardship Council's (Council) various drafts of the Delta Plan and shares the goals of the Council for restoration and protection of the Bay Delta and the effective and efficient use of California's critical water supplies. Reclamation has reviewed the November 16, 2012, proposed California Code of Regulation Title 23, Waters, Division 6, Delta Stewardship Council, and has the following two general comments.

Under section 5000, General Definition, the Agricultural Water Supplier definition exempts the Department of Water Resources from completing a water management plan but does not mention Reclamation. Reclamation should also be exempt from completing a water management plan. Proposed regulations in Title 23, Water Code section 10828, state that Federal Central Valley Project (CVP) water service and repayment contractors who submit water conservation plans to Reclamation pursuant to either the Central Valley Project Improvement Act or the Reclamation Reform Act may meet the requirements of proposed Title 23, Water Code section 10826, under certain conditions. Reclamation supports proposed regulation Water Code section 10828. Reclamation has in all CVP water service and repayment contracts, executed since 1994, a requirement that all contractors develop and implement a water conservation plan that meets Reclamation existing criteria. We update our water conservation criteria every 3 years and our CVP contractors need to update their existing water conservation plans every 5 years. Reclamation reviews all plans to ensure that they meet the existing criteria. The delivery of Federal CVP water is conditioned in the CVP water contracts upon our CVP contractors developing and implementing their water conservation plans. Therefore, since all CVP contractors complete the plans, Reclamation, similar to the Department of Water Resources, should also be exempted from completing a water management plan. Our proposed language changes (in *italics*) for section 5000, General Definitions, Agricultural Water Supplier, are as follows:

(c) "Agriculture Water Supplier" refers to both "agricultural retail water suppliers" and "agricultural wholesale water suppliers" under the Water Code, but not the Department of Water Resources *or the Bureau of Reclamation or any non-Federal operating entity that conveys or delivers water on behalf of the United States through facilities owned by the United States*, and includes both of the following:

The second area of comment is in section 5006, Improved Transparency in Water Contracting. The proposed regulations cite two Federal laws, the Central Valley Project Improvement Act and the Reclamation Reform Act. However, Rules and Regulations – Code of Federal Regulations, Part 426 – Acreage Limitations Rules and Regulations, have already been issued on Public Law (P.L.) 97-293 and these rules do address section 226 of the law. Additionally, the Central Valley Project Improvement Act has already been amended by the Consolidated Appropriations Act of 2012, P.L. 112-74. Reclamation proposes the following minor changes (in italics) to acknowledge what has already occurred and provide a mechanism for future Congressional or Department of the Interior actions without conflicting or amending your proposed regulations.

Section 5006

(a) The contracting process for water from the State Water Project (SWP) and/or the Central Valley Project (CVP) must be done in a publicly transparent manner consistent with applicable policies of the Department of Water Resources and the Bureau of Reclamation referenced below.

(b) For the purposes of Water Code section 8507.5(a) (3) and Section 5003(a) (5) of this Chapter, this policy covers the following:

(2) With regard to water from the Central Valley Project, a proposed action to enter into or amend a water supply or water transfer contract subject to Section 226 of P.L. 97-293, *as amended*, or Section 3405(a) (2) (B) of the Central Valley Project Improvement Act, *Title XXXIV of P.L 102-575, as amended*, which are attached as Appendix 2B, *and Rules and Regulations promulgated by the Secretary of the Interior to implement these laws*.

Reclamation continues its review of the Council's documents. We are available to discuss our comments with Council staff. Reclamation may provide additional comments at the January 24 hearing. We appreciate the opportunity to comment on your proposed regulations. If you have any questions or need additional information, please contact me at 916-414 -2401.

Sincerely,



Susan M. Fry
Area Manager